

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOHANZ X. SANTOS, ppa, DENISE COLON,)	C.A. No.: 03- 12210 MLW
DENISE COLON, Individually, JESUS SANTOS,)	
)	
Plaintiffs,)	
)	
v.)	
)	
BOB'S DISCOUNT FURNITURE; REGENT)	
HOME DELIVERY; AGNILIZ ACOSTAS;)	
RAUL SANTOS,)	
)	
Defendants.)	
)	

**PLAINTIFF'S MOTION TO COMPEL THE DEFENDANT TO PRODUCE THE
TRUCK OR SUBSTANTIALLY SIMILAR TRUCK FOR INSPECTION ON OR
BEFORE APRIL 22, 2005**

The accident in this case occurred when the minor child went into the street to get a ball and his visibility as well as the visibility of the driver of the car that struck him was obstructed by an illegally parked Bob's Discount truck. In preparation for expert disclosures and trial the Plaintiff has retained an accident reconstruction expert on line of sight and visibility issues. The Plaintiff requested the Defendant to produce the truck involved in the accident or a substantially similar truck for inspection by his expert or alternatively to provide the truck's dimensions. The request was made in writing on 04/05/05. Plaintiff's counsel conversed with Defendant's counsel on 4/11/05 asking about the inspection. The Defendant has refused to produce any truck or to provide the dimensions of the truck to the Plaintiff claiming discovery is over and the request is too late. Pursuant to the court's scheduling order, the Plaintiff must disclose experts by 05/01/05. The Plaintiff cannot comply with this order if the Defendant refuses to provide information within its exclusive control.

For these reasons the Plaintiff requests the court order the Defendant to produce the truck involved in the Plaintiff's accident or a substantially similar truck for inspection by the Plaintiff's expert. Alternatively, the Defendant should provide all dimensions for the truck including the width, height and length of all parts of the truck.

Since time is critical, Plaintiff requests the court shorten the time the Defendant must respond to this motion to seven days.

Respectfully Submitted
By Their Attorneys,

/s/ David P. Angueira

Edward M. Swartz
BBO#489540
David P. Angueira
BBO#019610
SWARTZ & SWARTZ
10 Marshall Street
Boston, MA 02108
(617) 742-1900

CERTIFICATE OF SERVICE

I, David P. Angueira, do hereby certify that I have served a copy of the within Plaintiff's Motion to Compel the Defendant to Produce the Truck or Substantially Similar Truck for Inspection on or before April 22, 2005 upon the Defendants by mailing same, first class mail, postage prepaid, to all counsel, to wit:

Richard F. Faille, Esq.
Faille, Birrell & Daniels
22nd Floor
1414 Main Street
Springfield, MA 01144

James F. Roux, Esq.,
Smith & Brink, PC
191 Chestnut Street - Suite 3D
Springfield MA 01103

/s/ David P. Angueira

David P. Angueira, BBO# 019610

Dated: April 11, 2005